

The proposed rule to soften, weaken or by-pass state telephone privacy laws, i.e. Indiana's telephone privacy (no-call) statute, should not be adopted by the FCC.

As with posting "no trespassing" signs, a line user/holder should be able to notify potential users of a telephone line--for which the 'owner pays' and in which he/she has a privacy expectation-- that solicitors, marketers and other such "phone spam" are not welcome. The Indiana law, and other laws that allow a line holder to refuse to be bothered by marketers in one's home, is a valid exercise of an individual's right to be free from telephonic intrusions made for no reason other than commercial gain of the marketer/caller. As the 'no call' list programs are optional, the telemarketing industry is free to exercise its First Amendment right to advertise or otherwise to persuade potential consumers not to accept the voluntary 'opt-in' of such no-call programs. That industry is free to try and convince consumers of the benefits and advantages to be gained from accepting telemarketing calls on the home phone lines for which the resident pays. This is a similar decision to one that a property owner may make to post 'no trespassing' signs to ward off unwanted intruders. In the end, the states should be free to enact legislation--such as the Indiana statute-- to create a safe harbor for residents and to regulate the intrusions of telemarketing in the same manner as those states restrict, license or control in-person home solicitation sales, charitable solicitation, and other commercial or semi-commercial ventures.

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